

BARBER & ASSOCIATES, LLC

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

VICKIE JORGENSEN,)
Plaintiff,)
vs.)
SAM'S WEST INC.)
Defendant) Case No. 3AN-19-10920CI

)

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AMENDED COMPLAINT

COMES NOW the plaintiff, VICKIE JORGENSEN, by and through her attorneys, BARBER & ASSOCIATES, LLC, and for her complaint against defendant SAM'S WEST INC., does state and allege as follows:

1. That at all times material hereto, plaintiff was and is a resident of Anchorage, Alaska.
2. That at all times material hereto, defendant Sam's West, Inc. was a corporation doing business as Sam's Club at 1074 N. Muldoon Rd., Anchorage, Alaska in the Third Judicial District, Alaska.
3. That at all times material hereto, the defendant was and is a Arkansas corporation doing business in the Third Judicial District, Alaska.

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4. On 11/11/17, the defendant owned and/or managed and/or controlled the walkway in front of its Sam's Club entrance at 1074 N. Muldoon Rd., Anchorage, Alaska.

5. That at all times material hereto, the defendant was responsible for the maintenance and safety of the surface conditions of the walkway outside the Sam's Club store entrance at 1074 N. Muldoon Rd., Anchorage, Alaska.

6. That defendant is liable for the actions and/or failure to act of it's employees and/or agents under theories of vicarious liability and/or agency and or respondeat superior.

7. The defendant is charged with the knowledge of its employees and/or agents acting within the course and scope of their employment.

8. Defendant had a duty to use care and diligence to keep and maintain the walkway at 1074 N. Muldoon Rd. in a condition that was reasonably safe for intended users and free from defects and conditions which would render it dangerous and unsafe for plaintiff and other users, or that would present an unreasonable risk of harm to plaintiff in her lawful use of the premises.

9. That the defendant had a duty to take reasonable steps to inspect the walkway in front of its entrance at 1074 N. Muldoon Rd.

10. The defendant was responsible for reasonably monitoring the

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walkway for any slippery condition from snow or ice at 1074 N. Muldoon Rd.

11. The defendant was responsible for reasonably pre-treating and/or treating and/or removing slippery conditions from snow and/or ice from the walkway outside its entrance at 1074 N. Muldoon Rd.

12. Defendant was responsible for reasonably treating and/or maintaining the walkway outside its entrance with sand, gravel, snow melt, and/or another product to provide traction on snow or ice during winter months at 1074 N. Muldoon Rd.

13. On 11/05/17 and 11/06/17, the temperature at 1074 N. Muldoon Rd. went above and below freezing each day.

14. On 11/05/17, 11/08/17, and 11/09/17, snow fell at 1074 N. Muldoon Rd.

15. Between 11/07/17 and 11/11/17, the temperature at 1074 N. Muldoon Rd. was below freezing.

16. At all times material hereto, the Sam's Club had a gutter located above the area where plaintiff fell that dripped water onto the accumulation of ice under certain weather conditions.

17. Defendant was required to do whatever was necessary to put and keep the walkway outside its entrance at 1074 N. Muldoon Rd. in a reasonably

safe condition.

18. The defendant had an adequate amount of time to identify and remedy the hazardous ice where the plaintiff fell.

19. Defendant and/or defendant's employees and/or agents knew or should have known that untreated ice and/or snow on the walkway posed an unreasonable safety hazard for intended users.

20. The defendant was responsible for providing reasonable warnings that the walkway surface at 1074 N. Muldoon Rd. was slippery and/or not treated or maintained.

21. On 11/11/17, there was an accumulation of ice on the walkway outside the Sam's Club entrance at 1074 N. Muldoon Rd.

22. The area where the Plaintiff fell was icy.

23. There was no sand or gravel on the ice at the time the plaintiff fell on ice.

24. The area where plaintiff fell needed to have gravel applied to it or to be sanded at the time of her fall.

25. The accumulation of ice was unreasonable.

26. The accumulation of ice was dangerous.

27. On 11/11/17, the accumulation of ice on the walkway was

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unreasonably slippery.

28. That at all times material hereto, the defendant and its employees and/or agents knew or should have known that the accumulation of ice was located on the walkway at 1074 N. Muldoon Rd. where customers would be expected to walk during business hours.

29. On or about 11/11/17, the plaintiff was injured when she slipped and fell on the accumulation of ice on the walkway outside the Sam's Club entrance at 1074 N. Muldoon Rd., which posed a hazardous condition that contributed as a substantial factor in legally causing injury to the plaintiff at the Sam's Club in Anchorage, Alaska, for which the defendant is liable.

30. Plaintiff immediately reported her fall and injury to Sam's Club personal.

31. On or about 11/11/17, an employee of the defendant provided plaintiff with an incident report form to fill out after she fell.

32. On or about 11/11/17, Plaintiff filled out the incident report and gave it to the defendant's employee.

33. The defendant negligently and/or with gross negligence and/or recklessly failed to reasonably maintain the safety of the surface conditions of the walkway outside the store entrance at 1074 N. Muldoon Rd. which contributed as a

substantial factor in causing harm to the plaintiff for which the defendant is liable.

34. The defendant had an adequate amount of time to identify and remedy the hazardous ice where the plaintiff fell, but failed to do so which contributed as a substantial factor in causing harm to the plaintiff for which the defendant is liable.

35. The defendant negligently and/or with gross negligence and/or recklessly failed to take reasonable steps to inspect the walkway in front of the Sam's Club entrance at 1074 N. Muldoon Rd. which contributed as a substantial factor in causing harm to the plaintiff for which the defendant is liable.

36. The defendant negligently and/or with gross negligence and/or recklessly failed to reasonably monitor the walkway at 1074 N. Muldoon Rd. for slippery conditions from snow or ice which contributed as a substantial factor in causing harm to the plaintiff for which the defendant is liable.

37. The defendant negligently and/or with gross negligence and/or recklessly failed to reasonably pre-treat and/or treat and/or remove slippery conditions from snow and/or ice on the walkway outside the Sam's Club entrance at 1074 N. Muldoon Rd. which contributed as a substantial factor in causing harm to the plaintiff for which the defendant is liable.

38. The defendant negligently and/or with gross negligence and/or

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recklessly failed to reasonably treat and/or maintain the walkway outside the Sam's Club entrance at 1074 N. Muldoon Rd. with sand, gravel, snow melt, and/or another product to provide traction on snow or ice during winter months which contributed as a substantial factor in causing harm to the plaintiff for which the defendant is liable.

39. The defendant negligently and/or with gross negligence and/or recklessly failed to do whatever was necessary to put and keep the walkway outside the Sam's Club entrance at 1074 N. Muldoon Rd. in a reasonably safe condition which contributed as a substantial factor in causing harm to the plaintiff for which the defendant is liable.

40. The defendant negligently and/or with gross negligence and/or recklessly failed to provide reasonable warnings that the walkway surface at 1074 N. Muldoon Rd. was slippery and/or not treated and/or maintained which contributed as a substantial factor in causing harm to the plaintiff for which the defendant is liable.

41. The defendant negligently and/or recklessly failed to keep the walkway surface at 1074 N. Muldoon Rd. where the plaintiff fell, in a safe condition which contributed as a substantial factor in causing harm to the plaintiff for which the defendant is liable.

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42. Ice and snow were accumulated in the area where the plaintiff had fallen.
43. Plaintiff was allowed to be where she was when she fell.
44. The area where plaintiff fell was a common area.
45. The plaintiff was with a Sam's Club member when she fell.
46. The defendant expected its parking lot to be reasonably safe for its customers to walk on.
47. The area where the plaintiff had fallen needed to have sand, gravel, snow melt, and/or another product providing traction put down.
48. After plaintiff's fall, a Sam's Club employee came to the area where the plaintiff has just fallen and stood watch over the accumulation of ice.
49. After plaintiff's fall, Sam's Club employees sanded the area where the plaintiff had just fallen.
50. The defendant's employees should have stood watch over the accumulation of ice and/or removed the ice before the plaintiff fell.
51. The defendant follows a national program of inspection and/or removal of hazardous conditions caused by inclement weather.

52. The defendant followed national procedures for incident investigation, documentation, and prevention which were devised and

implemented with respect to defendant's stores nationwide, including the store where plaintiff fell.

53. On information and belief the defendant has investigated numerous incidents of customers slipping and falling on snow or ice nationwide, and developed procedures for the store where the plaintiff fell based on nationwide occurrences.

54. The defendant is liable for negligent hiring and/or training and/or supervision and/or retention which contributed as a substantial factor in causing harm to the plaintiff for which defendant is liable.

55. On information and belief the defendant operated video cameras facing the Sam's Club walkway area where plaintiff fell on 11/11/17.

56. On information and belief plaintiff's fall was captured on the defendant's video system.

57. On information and belief, defendant retained or can access video of plaintiff's 11/11/17 fall at Sam's Club.

58. The defendant is liable for past and/or future: medical expense, pain, suffering, disability, loss of enjoyment of life, inconvenience, physical impairment, loss of non-market household services, and other non-pecuniary damages to be more fully set forth at trial, all in an amount in excess of \$100,000.00 (ONE

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HUNDRED THOUSAND DOLLARS), the exact amount to be set by the trier of fact.

59. The defendant is liable for professional negligence which contributed as a substantial factor in causing harm to the plaintiff for which defendant is liable.

WHEREFORE, having fully pled plaintiff's complaint, plaintiff requests a judgment against defendant for an amount in excess of \$100,000.00 (ONE HUNDRED THOUSAND DOLLARS) to be established by the trier of fact, plus interest, costs and attorney fees and such other relief as the Court deems just.

DATED at Anchorage, Alaska this 9th day of December, 2019.

BARBER & ASSOCIATES, LLC
Attorneys for Plaintiff

By: Derek Koehler
DEREK KOEHLER
AK Bar #1311083

CERTIFICATE OF SERVICE

This is to certify that on this date a copy of the foregoing was served by () mail () fax () hand to:

Kenneth Gutsch
Richmond & Quinn
360 K St. Suite 200
Anchorage, AK 99501

Derek Koehler

Date

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